

REMARKS

Claims 1, 14, 15, and 21-61 are pending in the application. Claims 26-31 have been withdrawn. By this amendment, claims 1 and 23 have been amended; and claims 15, 21, and 22 have been canceled. Accordingly, claims 1, 14, 23-25, and 32-61 are under consideration. Claim 1 is amended to incorporate the elements in claim 15 presented in the previous response. No new matter has been added.

With respect to all claim amendments and cancellations, Applicants have not dedicated or abandoned any unclaimed subject matter and moreover have not acquiesced to any rejections and/or objections made by the Patent Office. Applicants reserve the right to pursue prosecution of any presently excluded claim embodiments in future continuation and/or divisional application.

Withdrawal of previous objections and rejections

Applicant acknowledge with appreciation the withdrawal of the previous objections and rejections not reiterated in the present Office Action.

Rejections under 35 U.S.C. §112, second paragraph

Claim 1 and dependent claims are rejected under 35 U.S.C. §112, second paragraph. The Examiner alleges that SEQ ID NO:1 consists of 12 amino acids, thus a first peptidyl fragment comprising from about 5 amino acid residues cannot comprise SEQ ID NO:1. The Examiner further alleges that the plural "sequences set forth in SEQ ID NO:1" in claim 1 is improper because there is only one amino acid sequence identified as SEQ ID NO:1.

Without acquiescence to the rejection, Applicants have amended claim 1 to delete the phrase "from about 5 to about 30 amino acid residues" and to replace "sequences set forth in SEQ ID NO:1" to "sequence set forth in SEQ ID NO:1". Applicants respectfully submit that claim 1 as amended is definite.

Claims 15, 23, and 24 are rejected under 35 U.S.C. §112, second paragraph. The Examiner states that the second bacterial leader sequence cannot comprises SEQ ID NO:4 which is 17 amino acid long, and at the same time comprises SEQ ID NO:4 that is about 5 amino acid long.

Applicants note that claim 1 is amended to incorporate the elements in claim 15, and claim 15 is canceled. Claim 1 as amended do not recite the phrase "from about 5 to about 30 amino acid residues". Applicants respectfully submit that claim 1 as amended is definite.

In view of the above, Applicants respectfully request that the rejections under 35 U.S.C. §112, second paragraph, be withdrawn.

Rejections under 35 U.S.C. §103(a)

A. Claims 1, 2, 6-14, 21, 22, and 32 are rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over Yoshida et al. (Eur. Biochem. 242, 499-505, 1996), Takahashi et al. (J. Biol. Chem. 6, 12505-12307, 1997) in view of common knowledge in the field of protein expression as exemplified by U.S. Pat. No. 6,194,200.

Without acquiescence to the rejection, Applicants have amended claim 1 to incorporate the elements in claim 15. Applicants note that claim 15 is not rejected by the Examiner under 35 U.S.C. §103(a). Applicants respectfully submit that claim 1 as amended is not obvious over the references cited by the Examiner. Withdrawal of this rejection is respectfully requested.

B. Claims 33-37, 39-41, 45, 53, 54, 57-61 are rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over EP 821064A2, and further in view of Takahashi et al. and U.S. Pat. No. 6,194,200 as used in the above rejection of the chimeric protein of claim 1.

Applicants have amended claim 1 to incorporate the elements in claim 15 without acquiescence to the rejection. As discussed above, claim 1 as amended is not obvious in view of the references cited by the Examiner. EP 0821064 does not teach or suggests an isolated chimeric protein as recited in claim 1 as amended. Accordingly, claims directed to methods of using the

chimeric protein and kits comprising the chimeric protein are not obvious in view of the references cited by the Examiner. Withdrawal of this rejection is respectfully requested.

In view of the above, Applicants respectfully request that the rejections under 35 U.S.C. §103(a) be withdrawn.

CONCLUSION

In view of the above, each of the presently pending claims in this application is believed to be in immediate condition for allowance. Accordingly, the Examiner is respectfully requested to withdraw the outstanding rejection of the claims and to pass this application to issue. If it is determined that a telephone conference would expedite the prosecution of this application, the Examiner is invited to telephone the undersigned at the number given below.

In the event the U.S. Patent and Trademark office determines that an extension and/or other relief is required, applicant petitions for any required relief including extensions of time and authorizes the Commissioner to charge the cost of such petitions and/or other fees due in connection with the filing of this document to Deposit Account No. 03-1952 referencing docket no.466992001300. However, the Commissioner is not authorized to charge the cost of the issue fee to the Deposit Account.

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Respectfully submitted,

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